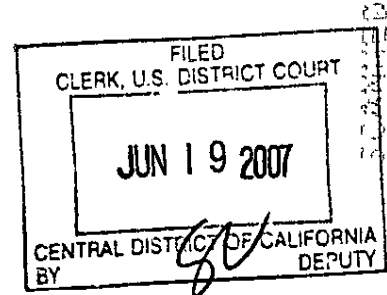


Paul Randolph Johnson et al v. Menu Foods Inc et al

Doc. 1

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ORIGINAL

6 Attorneys for Defendants,
 MENU FOODS, INC., MENU FOODS
 7 INCOME FUND, and MENU FOODS
 8 MIDWEST CORP.

SEND

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

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 CLERK, U.S. DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 WESTERN DIVISION

10 PAUL RANDOLPH JOHNSON and
 TAMMY NAVARRETE,

Plaintiffs,

vs.

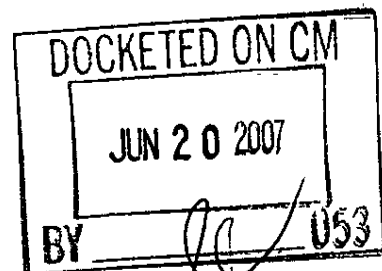
15 MENU FOODS, INC., MENU FOODS
 16 INCOME FUND, MENU FOODS
 17 MIDWEST CORP., CHEMNUTRA,
 INC., XUZHOU ANYING BIOLOGIC
 18 TECHNOLOGY DEVELOPMENT
 CO., LTD., et al.,

Defendants.

CASE NO. CV 07-01987 GHK (AJWx)

**STIPULATION AND [PROPOSED]
 ORDER STAYING ALL
 PROCEEDINGS AND FOR
 PRESERVATION OF EVIDENCE**

Judge: Hon. George H. King
 Ctrm: 650



23 **WHEREAS**, this case is one of over sixty (60) putative class actions filed in this
 24 court and several other courts throughout the country for damages and injunctive relief,
 25 arising from the manufacture, distribution and/or sale of pet food products by defendants,
 26 including but not limited to, MENU FOODS, INC., MENU FOODS INCOME FUND,
 27 and MENU FOODS MIDWEST CORP. (hereinafter referred to as "MENU FOODS");

28 //

1 **WHEREAS**, there are several Motions to Transfer and Coordinate or Consolidate
2 Action Pursuant to 28 U.S.C. § 1407 pending before the Judicial Panel on Multidistrict
3 Litigation ("MDL Panel"). Plaintiffs in Sexton, et al. v. Menu Foods Income Fund, etc.,
4 et al., Case No. CV07-01958 GHK (AJWx), Denise Lee Townsend, et al. v. Menu Foods
5 Limited, et al., Case No. CV07-00398 GHK (AJWx), and Dawn Howe, et al. v. Menu
6 Foods Limited, et al., Case No. CV07-02060 GHK (AJWx), filed motions to transfer and
7 coordinate or consolidate these actions to the Central District of California. Other parties
8 have moved for transfer of all related actions to the Southern District of Florida, the
9 Western District of Washington, the District of New Jersey, and the Northern District of
10 Illinois;

11
12 **WHEREAS**, the MDL Panel will determine whether all actions, including this
13 action, should be transferred and coordinated and/or consolidated under 28 U.S.C. §
14 1407 for pretrial proceedings. The MDL Panel set this matter for hearing on May 31,
15 2007 in Las Vegas, Nevada, heard the matter on May 31, 2007, and is not expected to
16 make a decision on the matter until some time in July, 2007;

17
18 **WHEREAS**, the parties believe that in the short intervening time between now
19 and a decision by the MDL Panel on transfer and coordination and/or consolidation, a
20 stay of these proceedings will conserve party and judicial resources;

21
22 **WHEREAS**, on or about April 25, 2007, this Court entered an order to stay all
23 proceedings pursuant to a stipulation in the lead and related case, Sexton, et al. v. Menu
24 Foods Income Fund, etc., et al., Case No. CV07-01958 GHK (AJWx); and

25
26 **WHEREAS**, on or about May 22, 2007, this Court entered a similar order to stay
27 all proceedings in the related cases, Townsend, et al. v. Menu Foods Income Fund, etc.,
28 et al., Case No. CV-07-00398 GHK (AJWx), Howe, et al. v. Menu Foods Inc., etc., et al.,

1 Case No. CV-07-02060 GHK (AJWx), and Grady, et al. v. Menu Foods Income Fund,
2 etc., et al., Case No. CV-07-2253-GHK (AJWx).
3

4 **IT IS HEREBY STIPULATED**, by and between the plaintiffs PAUL
5 RANDOLPH JOHNSON and TAMMY NAVARRETE, and defendants MENU
6 FOODS, INC., MENU FOODS INCOME FUND, MENU FOODS MIDWEST CORP.,
7 and CHEMNUTRA, INC., through their designated counsel that this matter, including
8 the deadlines for the parties to participate in class certification and other pretrial
9 proceedings, be stayed pending decision by the Panel on Multi-District Litigation on the
10 pending motions to transfer and coordinate/consolidate pending actions. Counsel shall
11 file a joint status report within 48 hours of such decision by the MDL Panel or within 30
12 days hereof whichever is sooner.

13 All parties shall, during the pendency of the stay of this matter, comply with their
14 duty to preserve all evidence that may be relevant to this action. This duty extends to
15 documents, electronic data, and tangible things in the possession, custody and control of
16 the parties to this action, and any employees, agents, contractors, or carriers who possess
17 materials reasonably anticipated to be the subject of discovery in this action.
18 "Preservation" is to be interpreted broadly to accomplish the goal of maintaining the
19 integrity of all documents, data and tangible things reasonably anticipated to be the
20 subject of discovery under Fed. R. Civ. P. 26, 45 and 56(e) in this action. Preservation
21 includes taking reasonable steps to prevent the partial or full destruction, alteration,
22 testing, deletion, shredding, incineration, wiping, relocation, migration, theft, or mutation
23 of such material, as well as negligent or intentional handling that would make material
24 incomplete or inaccessible. If the business practices of any party involve the routine
25 destruction, recycling, relocation, or mutation of materials, the party must, to the extent
26 practicable for the pendency of this order, either:

27 //

28 //

- 1 (i) halt such business practices;
2 (ii) sequester or remove such material from the business process; or
3 (iii) arrange for the preservation of complete and accurate duplicates or
4 copies of such material, suitable for later discovery if
5 requested.
6

7 **IT IS SO STIPULATED.**
8

9 DATED: June 12, 2007

KIRTLAND & PACKARD

10
11 By: 

MICHAEL L. KELLY
ROBERT M CHURELLA
ROBERT K FRIEDL
Attorneys for Plaintiffs,
PAUL RANDOLPH JOHNSON
and TAMMY NAVARRETE,
12
13
14
15

16 DATED: June , 2007.

MURCHISON & CUMMING, LLP

17
18 By: _____

JEAN M. LAWLER
GINA E. OCH
Attorneys for Defendants,
MENU FOODS, etc., et al.
19
20
21

22 DATED: June , 2007.

MORRIS POLICH & PURDY LLP

23
24 By: _____

ANTHONY G. BRAZIL
MEGAN S. WYNN
WENDI J. FRISCH
Attorneys for Defendant,
CHEMNUTRA INC.
25
26
27

28 **IT IS SO ORDERED:**

DATE: 6/18/07

United States District Judge

- 1 (i) halt such business practices;
2 (ii) sequester or remove such material from the business process; or
3 (iii) arrange for the preservation of complete and accurate duplicates or
4 copies of such material, suitable for later discovery if
5 requested.

6
7 **IT IS SO STIPULATED.**

8
9 DATED: June , 2007

KIRTLAND & PACKARD

10
11 By: _____

12 MICHAEL L. KELLY
13 ROBERT M CHURELLA
14 ROBERT K FRIEDL
Attorneys for Plaintiffs,
PAUL RANDOLPH JOHNSON
and TAMMY NAVARRETE,.

15
16 DATED: June 13, 2007.

MURCHISON & CUMMING, LLP

17
18 By:  _____

19 JEAN M. LAWLER
20 GINA E. OCH
Attorneys for Defendants,
MENU FOODS, etc., et al.

21
22 DATED: June , 2007.

MORRIS POLICH & PURDY LLP

23
24 By: _____

25 ANTHONY G. BRAZIL
26 MEGAN S. WYNN
27 WENDI J. FRISCH
Attorneys for Defendant,
28 CHEMNUTRA INC.

- 1 (i) halt such business practices;
2 (ii) sequester or remove such material from the business process; or
3 (iii) arrange for the preservation of complete and accurate duplicates or
4 copies of such material, suitable for later discovery if
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6
7 **IT IS SO STIPULATED.**

8
9 DATED: June , 2007

KIRTLAND & PACKARD

10
11 By: _____

12 MICHAEL L. KELLY
13 ROBERT M CHURELLA
14 ROBERT K FRIEDL
Attorneys for Plaintiffs,
PAUL RANDOLPH JOHNSON
and TAMMY NAVARRETE,.

15
16 DATED: June , 2007.

MURCHISON & CUMMING, LLP

17
18 By: _____

19 JEAN M. LAWLER
20 GINA E. OCH
Attorneys for Defendants,
MENU FOODS, etc., et al.

21
22 DATED: June 12, 2007.

MORRIS POLICH & PURDY LLP

23
24 By:  _____

25 ANTHONY G. BRAZIL
26 MEGAN S. WYNN
27 WENDI J. FRISCH
Attorneys for Defendant,
28 CHEMNUTRA INC.

O R D E R

Pursuant to Stipulation, **IT IS SO ORDERED.**

Dated: _____

THE HONORABLE GEORGE H. KING
UNITED STATES DISTRICT COURT JUDGE

SCANNED